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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,133	02/24/2004	Christopher M. Gallant	05918-324001 / VGCP No. 7	1633

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EXAMINER	
RODRIGUEZ, RUTH C	

ART UNIT	PAPER NUMBER
3677	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/785,133	GALLANT ET AL.	
	Examiner	Art Unit	
	Ruth C. Rodriguez	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *32-50 and 69-74* is/are pending in the application.

4a) Of the above claim(s) *32-37* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38-50 and 69-74* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 32-37 are canceled from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 22 December 2005.

2. Applicant's election without traverse of Invention I in the reply filed on 22 December 2005 is acknowledged.

3. The indicated allowability of claims 38-50 and 69-74 is withdrawn in view of the newly discovered reference(s) to Hartman. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 38-50 and 69-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US 2002/0023322 A1) in view of Kaneko (US 5,212,853).

Murasaki teaches a seat bun (12) comprising a compliant material (12) and a fastener component (1). The compliant material has a surface (lower surface shown in Figs. 7 and 8) having a central region bounded on two opposite sides by elongated trenches (where the fastener components 1 are disposed). The fastener component disposed within each trench (Figs. 7 and 8). The fastener component comprises a sheet-form base (1) and an array of engageable elements (4) extending integrally from at least one side of the sheet-form base (Figs. 1-32). Each of the engageable elements has an engageable side (inner portion of hook member 4) and a non-engageable side (outer portion of hook member 4) coterminous at an upper edge of the element. The engageable sides of a majority of the elements are oriented in a common direction (Figs. 1-32). Each fastener component is arranged with a non-engageable side of its wedge-shaped elements directly out of the trench (Figs. 1-32). Murasaki fails to disclose that the engageable elements are wedge-shaped and that the upper edge of each engageable element defines a curve in top view. However, Kaneko teaches a fastener component (1) comprising a sheet-form base (10a,10b) and an array of wedge-shaped, engageable elements (3) extending integrally from at least one side of the sheet-form base. Each of the engageable elements has an engageable side (3b) and a non-engageable side (4) conterminous at an upper edge of the element. The upper edge of each engageable element defines a curve in top view and the engageable sides of a majority of the elements are oriented in a common direction (Figs. 21-24). The

engageable sides of a majority of the elements are oriented in a common direction (Figs. 1-32). Each fastener component is arranged with a non-engageable side of its wedge-shaped elements directly out of the trench (Figs. 1-32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the array of wedge shaped, engageable elements extending integrally from at least one side of the sheet-form base where the upper edge of each engageable element defines a curve in top view as taught by Kaneko in the seat bun disclosed by Murasaki since the wedge shaped, engageable elements are well known in the wedge-shaped fastener art as demonstrated by Kaneko.

Murasaki fails to disclose that the fastener components comprise elongated U-shaped structures extending along each trench (Fig. 30).

Murasaki fails to disclose that the fastener components comprise tubular structures embedded within each trench. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fastener components as tubular structures embedded within each trench since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 147 (CCPA 1966). Especially since the function of the fastener component of retaining an element is the same irregardless of whether it has straight sides or it is tubular.

Murasaki discloses an engageable fastener component comprising a sheet-form base (1), an array of engageable elements (4) and hook-shaped projections (7). The array of engageable elements extending integrally from at least one side of the sheet-

form base. Each of the engageable elements has an engageable side and a non-engageable side (Figs. 1-32). The hook-shaped projections proximate the wedge-shaped engageable elements. Murasaki fails to disclose that the engageable elements are wedge-shaped and that the upper edge of each engageable element defines a curve in top view. However, Kaneko teaches a fastener component (1) comprising a sheet-form base (10a,10b) and an array of wedge-shaped, engageable elements (3) extending integrally from at least one side of the sheet-form base. Each of the engageable elements has an engageable side (3b) and a non-engageable side (4) conterminous at an upper edge of the element. The upper edge of each engageable element defines a curve in top view and the engageable sides of a majority of the elements are oriented in a common direction (Figs. 21-24). The engageable sides of a majority of the elements are oriented in a common direction (Figs. 1-32). Each fastener component is arranged with a non-engageable side of its wedge-shaped elements directly out of the trench (Figs. 1-32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the array of wedge shaped, engageable elements extending integrally from at least one side of the sheet-form base where the upper edge of each engageable element defines a curve in top view as taught by Kaneko in the fastener component disclosed by Murasaki since the wedge shaped, engageable elements are well known in the wedge-shaped fastener art as demonstrated by Kaneko.

Murasaki also discloses that the fastener component further comprises engageable loops proximate the engageable elements.

The non-engageable side of each fastener element rises from the sheet-form base at an angle of between about 5 and 45 degrees (Figs. 21-27)

The engageable sides of the wedge-shaped elements taught by Kaneko overhang from the sheet-form base (Figs. 21-27).

Kaneko discloses an engageable fastener component having all the features mentioned above for the rejection of claim 41. Kaneko fails to disclose that the engageable side of each fastener element extends downwardly from the upper edge towards the sheet-form base at an undercut angle, measured in a midplane bisecting the fastener element and perpendicular to the sheet-form base, of between about 10 and 45 degree. However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have the engageable side of each fastener element extends downwardly from the upper edge towards the sheet-form base at an undercut angle, measured in a midplane bisecting the fastener element and perpendicular to the sheet-form base, of between about 10 and 45 degree since such a modification would have involved a mere changes in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPA 237 (CCPA 1955). Especially since such a change does not affect the function of the engaeable fastener.

Murasaki discloses an engageable fastener component comprising a sheet-form base (1), an array of engageable elements (4) and engageable loops (6,15,16). The array of engageable elements extending integrally from at least one side of the sheet-form base (Figs. 13-18, 21-23 and 25-28). Each of the engageable elements has an

engageable side and a non-engageable side (Figs. 1-32). The engageable loops are proximate the engageable elements. Murasaki fails to disclose that the engageable elements are wedge-shaped and that the upper edge of each engageable element defines a curve in top view. However, Kaneko teaches a fastener component (1) comprising a sheet-form base (10a,10b) and an array of wedge-shaped, engageable elements (3) extending integrally from at least one side of the sheet-form base. Each of the engageable elements has an engageable side (3b) and a non-engageable side (4) conterminous at an upper edge of the element. The upper edge of each engageable element defines a curve in top view and the engageable sides of a majority of the elements are oriented in a common direction (Figs. 21-24). The engageable sides of a majority of the elements are oriented in a common direction (Figs. 1-32). Each fastener component is arranged with a non-engageable side of its wedge-shaped elements directly out of the trench (Figs. 1-32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the array of wedge shaped, engageable elements extending integrally from at least one side of the sheet-form base where the upper edge of each engageable element defines a curve in top view as taught by Kaneko in the fastener component disclosed by Murasaki since the wedge shaped, engageable elements are well known in the wedge-shaped fastener art as demonstrated by Kaneko.

The fastener component further comprises hook-shaped projections proximate the engageable elements (Figs. 13-18, 23-23 and 25-28).

The engageable elements are arranged in at least one row along the sheet-form base (Figs. 1-32).

Murasaki disclose that the elements are arranged in multiple rows. Murasaki fails to disclose that the elements are arranged in multiple rows, with elements of adjacent rows offset from one another along their respective rows. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have elements are arranged in multiple rows, with elements of adjacent rows offset from one another along their respective rows since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Especially since the fastener component will perform equally as well irregardless of whether the components are arranged in parallel rows or whether the engageable elements of adjacent rows are offset from one another along their respective rows.

Kaneko disclose that the curve defined by the upper edge in top view is substantially circular with a constant radius of curvature (Figs. 21-27).

Response to Arguments

6. Applicant's arguments with respect to claims 38-50 and 69-74 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mintel et al. (US 4,794,674), Clark (US 4,941,238), Allan (US 5,179,767 and US 5,640,744), Kaneko (US 5,212,853), Duffy (US 5,983,467), Martin et al. (US 6,625,851 B1) and Akeno et al. (US 6,487,759 B1) are cited to show state of the art with respect to fasteners having some of the features being claimed by the current application.

Merser (US 3,462,802) and Meeks (US 4,537,432) are cited to show state of the art with respect to straps having some of the features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
January 8, 2007

ROBERT J. SANDY
PRIMARY EXAMINER